

Add Revenue and Taxation Code Section 6452.5 to the Sales and Use Tax Law to require the filing of amended returns for specified overpayments and underpayments. Also amend Revenue and Taxation Code Section 6904 to allow the submission of claims for refund via electronic media.

Source: Sales and Use Tax Department

Existing Law. Revenue and Taxation Code (RTC) Section 6051 imposes a sales tax on all retailers for the privilege of selling tangible personal property at retail in this state. Under Civil Code Section 1656.1, a retailer may add sales tax reimbursement to the sales price of tangible personal property if the contract of sale provides for such reimbursement.

RTC Section 6452 requires a retailer and any other person liable for the tax to file a return with the Board of Equalization (BOE). Generally, returns are due quarterly at the end of the month following the quarterly reporting period.

RTC Section 6904 provides that every claim for refund must be in writing and state the specific grounds upon which the claim is founded.

Current law does not require the filing of an amended return when a taxpayer discovers that an overpayment or underpayment has occurred.

Existing Policies and Procedures. The BOE's Compliance Policy and Procedure Manual contains procedural guidelines for taxpayers to apply when they discover an error on a sales and use tax return. Under the guidelines, taxpayers should make a copy of the originally filed return and indicate the corrected figures beside the original figures. In addition, they should write the notation "AMENDED RETURN DO NOT PROCESS AS ORIGINAL" on the face of the return, and include a cover letter explaining the changes. Under current processes, when a taxpayer submits a return without the "AMENDED RETURN" notation on the face of the return, the BOE considers it a duplicate return, rather than an amended return.

In lieu of filing an amended return, current procedures allow a taxpayer to submit a claim for refund form (a BOE-101, *Claim for Refund*). This form requires the taxpayer to describe the reason for and the amount of the refund. Frequently, taxpayers indicate \$1, as they have not determined the specific amount of the overpayment. Submitting a claim for refund for \$1, rather than an amended return, requires significantly more staff resources to determine the validity of the claim for refund and the proper amount.

This Proposal. This proposal requires taxpayers to file an amended return with the BOE when they believe they overpaid or underpaid tax on a previously filed return, provided the statute of limitations has not expired.

This proposal would also allow the electronic filing of claims for refund.

Section 6452.5 is added to the Revenue and Taxation Code to read:

6452.5. (a) When a person believes an error has been made on a previously filed return, the person shall file an amended return if either of the following apply:

(1) The amended return results in an underpayment of tax for the period, and the period in which the underpayment occurred is within the time a deficiency determination may be made for the underpayment under Section 6487.

(2) The amended return results in an overpayment of tax for the period and the date in which the amended return is filed and the period for which the amended return is filed are within the time specified in Section 6902.

(b) An amended return shall be in a form as prescribed by the board, which may include, but is not limited to, electronic media.

(1) If the amended return results in an overpayment of tax, the amended return shall be accompanied by an explanation of the reason for the overpayment. If the overpayment represents excess tax reimbursement, the board may require that the excess tax collected be returned to the person from whom it was collected as a condition of the refund.

(2) If the amended return results in an underpayment of tax, penalty and interest shall be due in accordance with this part.

Section 6904 of the Revenue and Taxation Code is amended to read:

6904. (a) Every claim shall be in the form as prescribed by the board, which may include, but not be limited to, electronic media, writing and shall state the specific grounds upon which the claim is founded.

(b) A claim filed for on behalf of a class of taxpayers shall do all of the following:

(1) Be accompanied by written authorization from each taxpayer sought to be included in the class.

(2) Be signed by each taxpayer or taxpayer's authorized representative.

(3) State the specific grounds on which the claim is founded.